

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA)
)
 v.) Case No. 3:14-CR-55 JD
)
JAMES P. LeDONNE)

GOVERNMENT’S MOTION FOR A NO-CONTACT ORDER

Comes now the United States of America, by David Capp, United States Attorney for the Northern District of Indiana, and respectfully moves this Court to issue an order restricting defendant from communicating directly or indirectly with any victim, witness, law enforcement agent and federal prosecutor, for the following reasons:

Almost 31 months ago, a grand jury returned an indictment charging defendant with 17 counts of fraud. More than 60 individuals suffered financially from the scheme. Through various ways, defendant has caused repeated delays of the trial. Many victims are tired of the delays. (Exhibit A) Very little consideration has been given to them even though they have a “right to proceedings from unreasonable delay.” 18 U.S.C. 3771(7). And now, after obtaining another postponement because defendant’s mental health condition supposedly may prevent him from assisting his lawyer, defendant is typing away in the Elkhart County Jail and sending emails to victims that

contain lies about some of the witnesses and a false promise of full compensation. (Exhibit B) None of these individuals want to hear from defendant.

Federal law provides additional victim rights including “to be reasonably protected from the accused ... [and] to be treated with fairness and with respect for the victim’s dignity and privacy.” 18 U.S.C. 3771(1) and (4). Defendant is trampling their rights.

Even more egregious, by lying about the strength of the government’s case, and promising money, defendant is engaging in witness tampering in violation of 18 U.S.C. 1512(b)(1) and other federal statutes. It should be noted that defendant won’t have a choice of compensating the victims if he is convicted of any of the mail or wire fraud counts, see 18 U.S.C. 3663(A), a fact he did not mention in his email.

Defendant also continues to send AUSAs emails and letters.¹ (Exhibit C)

The government requests the Court to immediately issue an order restricting defendant from communicating directly or indirectly with any victim, witness, investigating agent or prosecutor assigned to this case. See, *United States v. Smalanskas*, 2012 WL 5064489, at *1 (D. Mass. Oct. 16,

¹ The undersigned AUSA and the Criminal Chief have each received letters and emails from defendant during recent months. Defendant also sent letters to the U.S. Attorney.

2012) (Court reaffirmed order restricting defendants from communicating with their nanny who was the main witness in a harboring alien case for fear “of risk of obstruction of justice, witness tampering, and witness intimidation”.) Defendant will not suffer any prejudice as the order will not prevent defendant’s attorney from communicating with any of these individuals.

Unless defendant disputes he was not the author of the communications, there is no need for an evidentiary hearing. Further, to ensure defendant is aware of the order, it should require defense counsel, or alternatively, the Marshals to serve and read the order to defendant, and provide a status report regarding the service.

WHEREFORE, the government requests the Court to issue the order prohibiting defendant from communicating in any form, directly or indirectly with any witness, victim, investigating agent and prosecutor assigned to this case.

Respectfully submitted,

DAVID CAPP
UNITED STATES ATTORNEY

By: /s/ Gary T. Bell
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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/EFC system which sent notification of such filings to counsel of record.

S/Lorene B. Nelson
Lorene B. Nelson
Legal Assistant